

STATE OF MICHIGAN
COURT OF APPEALS

EMMA A. REED,

Plaintiff-Appellant,

v

MERCY HEALTH SERVICES, INC., d/b/a ST.
JOSEPH MERCY HOSPITAL, and SONJA
BERRY,

Defendants-Appellees.

UNPUBLISHED
October 12, 1999

No. 210444
Oakland Circuit Court
LC No. 97-551304 CZ

Before: Griffin, P.J., and Zahra and S.L. Pavlich*, JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court's order granting defendants' motion for summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff was employed by St. Joseph Mercy Hospital as a posting clerk when an internal audit revealed the existence of an embezzlement scheme. Plaintiff became a suspect, and was suspended from her employment. On November 22, 1996 the *Oakland Press*, a newspaper of general circulation, published a story about the scheme. The story stated that Hospital employees had been suspended; however, plaintiff's name was not included in the story. A number of plaintiff's current or former co-workers learned that she had been suspended pending an investigation of the scheme. At a meeting of the Hospital's fiscal service employees the investigation was discussed and it was revealed that employees had been suspended. Plaintiff was not named as one of the suspended employees. Following the investigation, plaintiff was reinstated with full back pay and accrued benefits.

Plaintiff's amended complaint alleged defamation; invasion of privacy—false light; invasion of privacy—disclosure of private fact; negligence; and promissory estoppel. Defendants moved for summary disposition pursuant to MCR 2.116(C)(8) and (10), arguing that suspension of plaintiff during the investigation did not constitute publication of defamatory statements, that plaintiff failed to establish a

* Circuit judge, sitting on the Court of Appeals by assignment.

violation of her right to privacy, and that defendants had no duty as a matter of law to investigate the matter and return plaintiff to her employment. Plaintiff argued that summary disposition was premature because discovery was incomplete; in addition, plaintiff contended that it could be inferred that defendants published the fact that she had been suspended. The trial court granted defendants' motion, noting that the un rebutted affidavits submitted by defendants in support of the motion established that plaintiff's current or former co-workers did not learn of her suspension from defendants. Plaintiff was not named in the newspaper article or at the employees' meeting. Finally, the trial court concluded that plaintiff had failed to specify what discovery that could be completed would reveal the existence of a genuine issue of fact.

We review a trial court's decision on a motion for summary disposition de novo. *Harrison v Olde Financial Corp*, 225 Mich App 601, 605; 572 NW2d 679 (1997).

Plaintiff argues that the trial court erred by granting defendants' motion for summary disposition. We disagree and affirm. Plaintiff fails to discuss the facts of the instant case. The affidavits from plaintiff's current and former co-workers submitted by defendants in support of their motion were not contradicted by counter affidavits or other documentary evidence from plaintiff. A mere statement that the existence of a disputed fact will be established at trial does not warrant denial of a motion for summary disposition. *Cox v City of Dearborn Heights*, 210 Mich App 389, 398; 534 NW2d 135 (1995). Speculation and conjecture are insufficient to create the existence of disputed facts. *Libralter Plastics, Inc v Chubb Group of Ins Cos*, 199 Mich App 482, 486; 502 NW2d 742 (1993). Discovery was not complete when summary disposition was granted in the instant case; however, summary disposition may be granted before discovery is complete if further discovery would not stand a reasonable chance of uncovering factual support for the opposing party's claim. *Hasselbach v TG Canton, Inc*, 209 Mich App 475, 482; 531 NW2d 715 (1995). Plaintiff has failed to indicate what further discovery would provide factual support for her claims.

Affirmed.

/s/ Richard Allen Griffin

/s/ Brian K. Zahra

/s/ Scott L. Pavlich